IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.51 OF 2007
IN
SUIT NO.4913 OF 2000

ORDER IN COURT RECEIVER'S REPORT NO.61 OF 2007

Majid Ahmed Oomerbhoy ...Plaintiff
Vs.
Rashid Sattar Oomerbhoy & Ors. ...Defendants
And
The Court Receiver,
High Court, Bombay & Anr. ...Respondents

Ms.Manjiri Shah i/b. Thakore Jariwala & Associates for Plaintiff
Mr. A.N. Maniyar for A.P.P (Defendant No.4)
Ms.T. Saria i/b. S.K. Srivastav & Co. for Defendant No.1
Mr. D.V. Deokar, Asstt. To Court Receiver present

CORAM: SMT. ROSHAN DALVI, J.
DATED: 2ND MARCH, 2007

P.C.

1. The Suit concerns flat No.2(A) admeasuring 750 sq. feet in the building in Andromeda Apartments at Worli Sea Face, Mumbai. The said flat is in possession of Respondent No.2 who is Defendant No.4(b) in the suit. The suit flat is adjoining flat No.2(B) which is also in possession of

Respondent No.2 but as a partner of another firm one Bombay Soap Factory. The Defendant No.1 is one of the other partners of Bombay Soap Factory. The Respondent No.2 as well as Respondent No.1 are concerned with both the partnership firms. The flats 2(A) and 2(B) have no demarcation in between them since they are in possession of one person. However, the Court Receiver has been appointed only in respect of flat No.2(A). Flat No.2(B) admeasures 1400 Sq. ft. The dispute in the suit does not relate to the partnership firm of Bombay Soap Factory.

2. Two orders of the Court passed by Justice Mohite are relevant in this Chamber Summons. The order dated 4th October, 2006 shows that the parties have agreed to dissolve the partnership firm concerned in the Suit to sell of the assets of the firm by inviting bids. Consequently Flat No.2(A) would be required to be sold. The said order shows that the sale is agreed by the parties to be proceeded with without obtaining further inventory and valuation on "as is where is" basis.

3. There is another order dated 8th November, 2006 in this Suit. Under that order the Court Receiver is to demarcate the premises of which the possession is required to be taken by the Court Receiver. That entails demarcation between flat

No.2(A) and 2(B). The Court Receiver is appointed for Flat No.2(A) and not for Flat No.2(B). The parties have appeared before the Court Receiver from time to time. An Architect's report has been prepared. The Architect has shown the demarcation to be carried out. That demarcation is only by way of two small partition walls in the lobby which leads to the two flats. Both the flats would have their respective entrances. I am told that in fact the said two flats were initially two different flats. They have later on been joined. Hence, the demarcation of the two flats can not only be easily done but is required to be done in the circumstances that prevail within the parties.

4. The Officer of the Court Receiver has shown that the demarcation has been made by the Architect and has been given to all the parties. Consequently prayer clause (a) of the Chamber Summons is complied. The parties have to in fact carry out the work of construction of putting up two partition walls shown in **yellow** and **pink** colour on the original plan of the Architect. The Court Receiver shall therefore, carry out the demarcation as per the Architect's plan within two weeks from today.

5. The Respondent No.2, who has himself applied for the segregation of the area of 1750 sq. ft by making partition

walls, shall not obstruct the construction of partition walls.

6. The Respondent No.2 shall also pay the Architect's bills for Rs.5510/- and Rs.5612/- which are for the cost of putting up the partition walls. The Court Receiver shall be entitled to costs of Rs.1000/- from the funds in his hand.

7. The Chamber Summons of Respondent No.2 as well as the Court Receiver's reports are disposed of accordingly.

(SMT.ROSHAN DALVI, J.)